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OFFICE OF PETITIONS

In re Application of
David Boll et al.
Application No. 10/669,761
Filed: September 24, 2003
Attorney Docket No. NSEE 2 00005

DECISION GRANTING
PETITION

This is a decision on the petition filed under 37 CFR 1.53 on January 23, 2004, requesting that the above-identified application be accorded a filing date of September 24, 2003, with Page 22 of the specification as a part of the original disclosure.

The petition is **GRANTED**.

The application was filed on September 24, 2003. However, on December 19, 2003, the Office of Initial Patent Examination mailed a "Notice" stating that the application had been accorded a filing date but that, *inter alia*, Page 22 of the specification (description and claims) appeared to have been omitted.

In response, on January 23, 2004, page 22 of the specification, the present petition, and a petition fee were filed. Petitioners argue that Page 22 was filed with the other application papers on September 24, 2003. In support, a copy of petitioners' postcard receipt was supplied January 23, 2004 with the instant petition. The postcard receipt shows an Office date stamp of September 24, 2003, and the above-identified application number, and acknowledges receipt of, *inter alia*, 8 pages of claims (pages 16 to 23). Petitioners request that the application, including Page 22 of the specification, be accorded a filing date of September 24, 2003.

A review of the record reveals that no Page 22 of the specification has been located among the application papers deposited on September 24, 2003. However, the evidence is convincing that the application papers deposited on September 24, 2003, included Page 22 of the specification. Therefore, the application, including Page 22 of the specification, is entitled to a filing date of September 24, 2003.

The "Notice" mailed on December 19, 2003, is vacated to the extent that it stated that Page 22 of the specification appeared to have been omitted.

In view of the above, the petition is granted. The petition fee will be refunded to counsel's deposit account, No. 06-0308, as authorized on the application transmittal sheet.

The application will be processed and examined using the copy of Page 22 supplied on January 23, 2004.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of September 24, 2003, using the application papers filed on that date, and the copy of Page 22 supplied on September 24, 2003.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.


Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions